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Attorney for Defendant,  
BRACHFELD LAW GROUP, P.C.,  
LVNV FUNDING LLC &  
ERICA BRACHFELD

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BLANCA SANTOS

Plaintiff,

vs.

LVNV FUNDING, LLC, BRACHFELD LAW  
GROUP, P.C., & ERICA BRACHFELD

Defendants.

CASE NO.: 2:11-CV-02683 EJD

DEFENDANT BRACHFELD LAW GROUP,  
P.C. & ERICA BRACHFELD'S ANSWER TO  
COMPLAINT

Defendant THE BRACHFELD LAW GROUP, P.C, LVNV FUNDING and ERICA BRACHFELD ("Defendants"), for itself and no other defendants answer Plaintiff BLANCA SANTOS ("Plaintiff" Complaint ("Complaint")) as follows:

1. Answering Paragraphs 1-5 & 9-11, 13, 15, 17, 18 & 21 of the Complaint, Defendants admits the allegations contained therein.
2. Answering Paragraphs 6-7 of the complaint, defendants admit that the FDCPA is applicable herein, but deny that Rosenthal is applicable.
3. Answering Paragraph 8 of the Complaint, Defendants state that the underlying action was violated by a State Bar certified professional corporation established by Erica Brachfeld.

1 Under the Business and professions code, the Corporation is the attorney of record, and  
2 Erica Brachfeld is the owner of the Corporation.

3 4. Answering Paragraph 12, 19 & 22 of the Complaint, Defendant lacks sufficient  
4 information to admit or deny that the conversation occurred but does not deny that it mistakenly  
5 filed a default judgment; however, notice thereof was provided to Plaintiff, who failed to contact  
6 Defendants to give Defendants an opportunity to fix the good faith mistake.

7 5. Answering Paragraph 14 of the Complaint, Defendants deny this request as it includes  
8 all Defendants. Defendants admit that Brachfeld Law Group failed to update its' computer  
9 system to reflect the settlement, thus causing the erroneous request for entry of default to issue.

10 6. Answering Paragraph 16 of the Complaint, Defendants are entitled to rely upon the  
11 presumption of service though has no reason to dispute the veracity of Plaintiff's assertion.

12 7. Answering Paragraph 20 of the Complaint, Defendants lack sufficient information to  
13 admit or deny this request; however, defendants tendered payment of actual and statutory  
14 damages to Plaintiff which Plaintiff rejected.

15 8. Answering Paragraph 23& 28 of the Complaint, the allegation speaks for itself.

16 9. Answering Paragraph 24- 27 &29-32 of the Complaint, Defendants deny the allegations  
17 contained therein.

18 10. Answering Plaintiffs prayer for relief a. Defendant has and continues to tender the full  
19 statutory penalty of \$1,000 to Plaintiff.

20 11. Answering Plaintiffs prayer for relief b. defendant has repeatedly requested  
21 documentation supporting the fees claimed and legal basis for entitlement, but Plaintiff refuses  
22 to produce same.

23 Defendants have agreed to reimburse the fees claimed upon documentation or proof of payment  
24 therefore.

25 12. Answering Plaintiffs prayer for relief c. Defendant tendered reasonable fees to  
26 Plaintiff which were rejected. Defendant contends that all fees incurred since tender of payment  
27  
28

1 in this action are not reasonable. Defendant also contends that Plaintiff has not incurred any fee  
2 obligation, that Plaintiffs counsel is prohibited from collecting fees, but regardless, Defendants  
3 tendered reasonable fees incurred at the outset of this action.

4 **FIRST AFFIRMATIVE DEFENSE**

5 1. As a separate, affirmative defense, Defendants alleges that the Complaint, and each  
6 And every purported cause of action contained therein, fails to state facts sufficient to  
7 constitute a cause of action.

8 **SECOND AFFIRMATIVE DEFENSE**

9 2. As a separate, affirmative defense, Defendant alleges that the mistake herein was a bona  
10 fide error on their part and that appropriate steps were taken to mitigate any harm including  
11 tendering of payment of the Statutory penalty and reasonable attorney fees.

12 **THIRD AFFIRMATIVE DEFENSE**

13 3. That Erica Brachfeld is not a proper party to this action.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 4. That the Rosenthal Act specifically excludes coverage to Attorneys and  
16 all acts undertaken in this matter were done by a State Bar Certified Professional Corporation that exists  
17 solely and exclusive pursuant to the license to practice law issued to Erica Brachfeld.

18 WHEREFORE, this answering Defendant prays:

- 19 1. For a judgment in favor of Defendants, and against Plaintiff, and that Plaintiff take nothing  
20 by reason of said Complaint; and  
21 2. That this answering Defendant be awarded cost of suit and attorney fees and such other  
22 further relief as the Court deems just.  
23 3. That this answering Defendant be awarded cost of suit and attorney fees and such  
24 other further relief as the Court deems just.

25 DATED: February 3, 2012

26 **THE BRACHFELD LAW GROUP, P.C.**

27 By: /s/  
28 Jonathan W. Birdt, Esq. (SBN. 183908)